

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY SMITH,

Plaintiff,

v.

CDCR EDUCATION DEPARTMENT,
ET. AL.,

Defendants.

No. 1:20-cv-00716-NONE-HBK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS GRANTING
MOTION TO DISMISS AND DIRECTING
PLAINTIFF TO FILE AN AMENDED
COMPLAINT

(Doc. No. 30)

Plaintiff Gary Smith, a state prisoner, initiated this action by filing a civil rights complaint under 42 U.S.C. § 1983. (Doc. No. 1.). The matter was referred to the assigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 24, 2021, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion to dismiss be granted with leave to amend. (Doc. No. 30 at 12.) The findings and recommendations contained a notice that any objections were due within fourteen days. (*Id.* at 1, 12.) Neither party filed any objections. (*See* docket.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

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1 ACCORDINGLY, it is ORDERED:

- 2 1. The findings and recommendations filed on August 24, 2021 (Doc. No. 30) are adopted
3 in full;
- 4 2. Defendants' motion to dismiss (Doc. No. 19) is granted;
- 5 3. Plaintiff is granted leave to file an amended complaint within thirty (30) days from the
6 service date of this order;
- 7 4. Plaintiff's failure to timely file an amended complaint will result in the dismissal of
8 this action for failure to prosecute without further notice.

9 IT IS SO ORDERED.

10 Dated: September 18, 2021

Dale A. Drayd
11 UNITED STATES DISTRICT JUDGE

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